

Application No. 10/649,831  
Amendment dated October 13, 2005  
Reply to Office Action of July 22, 2005

## **REMARKS/ARGUMENTS**

### ***Elections/Restrictions***

Applicant confirms the election of the claims of Group I (claims 1-8 and 17) to proceed and withdraws claims 9-16 and 18-24 from consideration without prejudice.

### ***Drawings***

Applicant has removed reference character 107 from the drawings where it is directed to the upper extension.

### ***Specification***

A shortened and reworded abstract is submitted herewith. Applicant submits that Examiner's objection in this regard are moot in light of these the new abstract.

### ***Claim Rejections – 35 USC § 102***

Examiner rejected claim 17 as being anticipated by Titchenal (US 4,524,459). Applicant has cancelled claim 17.

### ***Claim Rejections – 35 USC § 103***

Claims 1-4, 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Osgood (US 5,074,675) in view of Tsuboi (JP 5-178355). Specifically, the Examiner argues it would be obvious to apply the angled edges of Tsuboi to the metallized bag having a bottom fold and gusset of Osgood.

With respect, Applicant does not agree that a person skilled in the art applying Tsuboi to Osgood would arrive at the present invention. The Examiner is directed specifically to the drawings of Tsuboi. The bag of Tsuboi is of fundamentally different construction from the bag of the present invention. As recited, the bag of the present invention is made from one sheet. After the sheet of Tsuboi has been folded and gussetted (Figures 1 and 2), a smaller folded sheet is then added into

the gusset between the sheets that will form the front and back of the bag (Figure 3). Cutting the sheet along the cut lines of Figure 3 produces three separate sheets in Figure 4: two largely rectangular sheets having angled bottom corners and the smaller sheet which if unfolded forms a long hexagon shape. As seen in Figure 5, the smaller hexagonal sheet forms the bottom of the bag. The bag of Tsuboi is then sealed along the side edges of the front and back sheets, and at every edge of the smaller hexagonal sheet forming the bottom. Since the bag of Tsuboi is formed from essentially three separate sheets sealed together, this results in a significant structural difference in the bag. Most notably, since the bottom of the bag is not integral with the front and back of the bag, there are sealed edges at the junctions thereof. As recited in claim 1, the bag of the present invention (since the bottom is integral with the front and back) has only a fold at these edges.

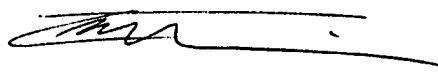
Furthermore, Applicant has added new claim 25 to recite a bag with the entire outer surface of the bag being metallized. This feature can not be found in either of the cited references. At best, a person skilled in the art applying Tsuboi to Osgood would arrive at a bag with angled edges and only partially metallized on the surface. The Examiner herself notes that Osgood does not have metallized aluminum over the entire surface since this results in poor performance of the bottom gussets edge seals. So in fact, Osgood teaches away from the present invention. Advantageously, the bag of the present invention is metallized over the entire outer surface and thus food products contained within will stay fresh longer and less outside light will be incident thereon. In fact, unexpectedly and completely contrary to Osgood, the present invention relies on a metallized outer surfaces *at the angled edges* so that only adjacent angled edges with untreated surfaces facing each other are bonded together (see description at para. 36, 39, 44 and 48). It is therefore respectfully submitted that claim 25, is additionally distinguished from Osgood and Tsuboi and is therefore patentable thereover, alone or in combination.

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If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 195113, referencing our File No. 15905-2US.

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Respectfully submitted,



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**Amendments to the Drawings:**

The attached sheets of drawings include changes to Figures 1 and 3. These sheets replace sheets including Figures 1 and 3. In Figures 1 and 3, reference character 107 that is directed to the upper extension has been deleted.

Attachment: Replacement Sheet

Annotated Sheet Showing Changes

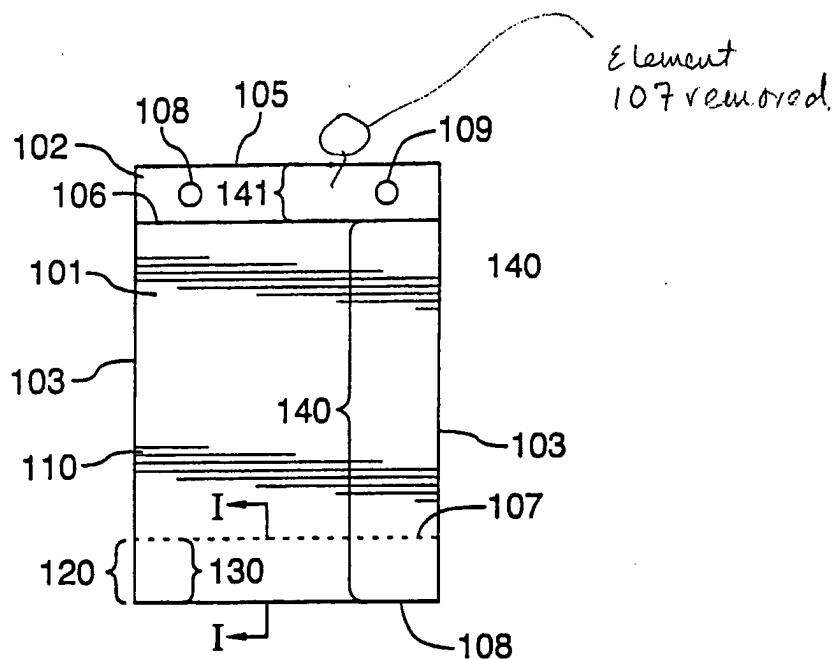


FIG.1  
Prior Art

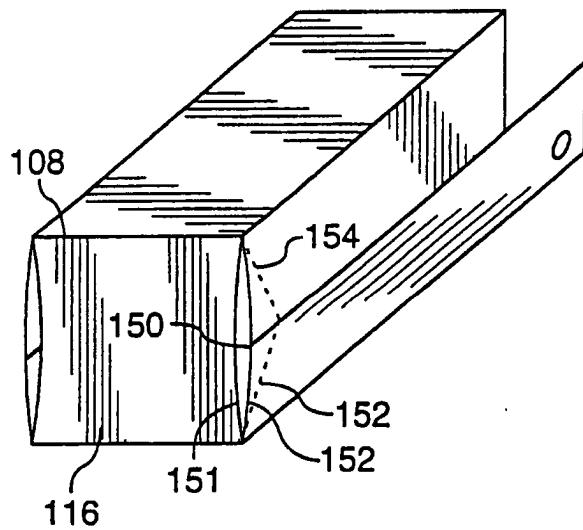


FIG.2  
Prior Art

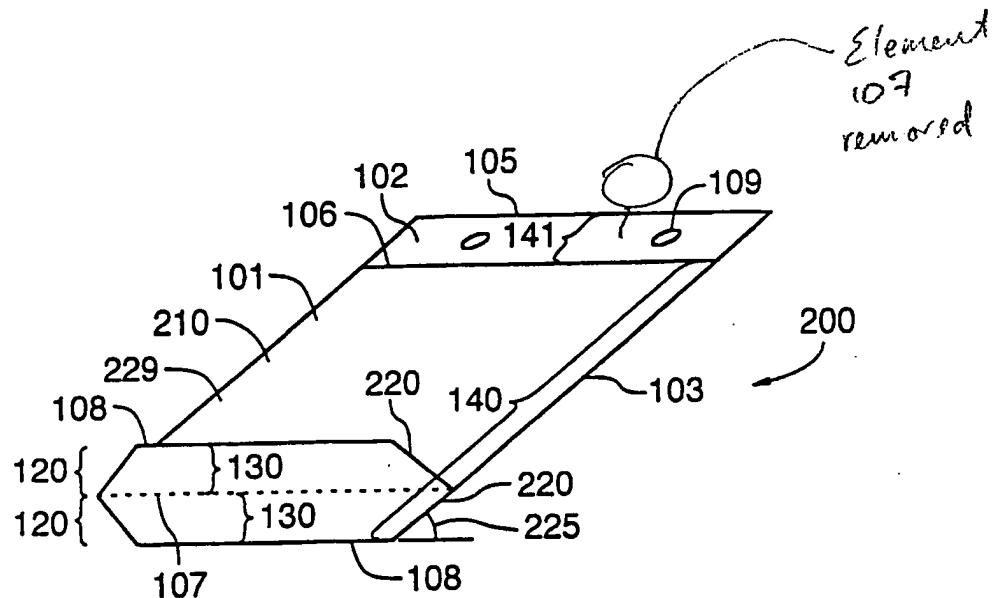


FIG.3

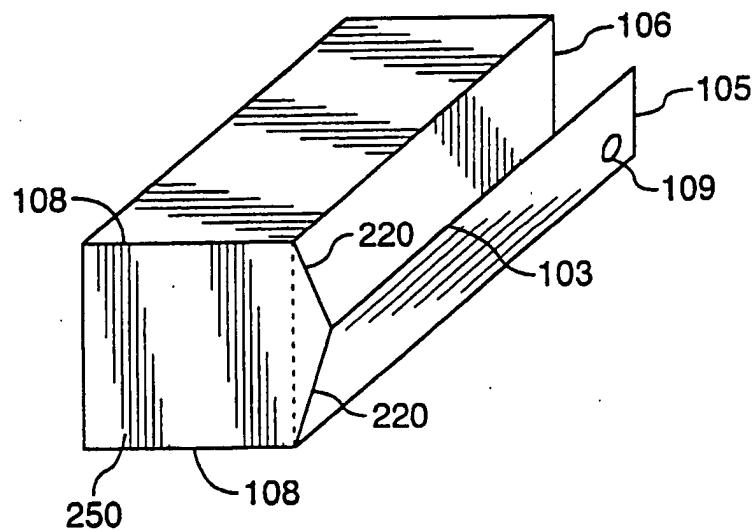


FIG.4